IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WA.No. 979 of 2006()

AGAINST THE JUDGEMENT IN WPC.24715/2005 Dated 23/09/2005
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APPELLANT: PETITIONER:

M. KOYAKUTTY, S/O. MEERA SAHIB,
THEKKUMURI, PUTHIYANKAM P.O., ALATHUR TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.P.R.VENKETESH

RESPONDENTS: RESPONDENTS:
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1. THE STATE OF KERALA,
REP. BY THE SECRETARY TO GOVT.,FINANCE (PENSION-BO
DEPARTMENT), SECRETARIAT, TRIVANDRUM.

2. THE KERALA WATER AUTHORITY,
REP. BY ITS MANAGING DIRECTOR, JALA BHAVAN,
TRIVANDRUM.

BY GOVT. PLEADER SRI. BENNY GERVASIS FOR R1
BY ADV. SRI.C.UNNIKRISHNAN, SC, KWA FOR R2

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.Radhakrishnan
&
Antony Dominic, JJ.
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W.A.No.979 of 2006
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Dated this the 31st day of May, 2007.

JUDGMENT

Radhakrishnan,J.

Writ Petition was preferred by the appellant herein seeking a writ of mandamus directing the respondents to reckon the provisional service rendered by the petitioner as a Village Man while determining his qualifying service and disburse the monetary benefits due to him and for a writ of certiorari to quash Ext.P2 order and also for consequential reliefs.

2. Petitioner retired from the service of the Kerala Water Authority while working as Overseer Grade III on 30.6.1998. He had rendered provisional service as Village Man in the Revenue Department during 1970. On termination of the temporary services from the Revenue Department, he got appointment in the Public Health Engineering Department. When the Kerala Water Authority was constituted by an Act of the Legislature, Officers and employees working in the Public Health Engineering Department were taken as

Officers and employees of the Kerala Water Authority and the Public Health Engineering Department ceased to be in existence. Admittedly, there is no provision in the Kerala Water Authority and Sewerage Act 1983 to reckon the provisional service rendered in Departments other than P.H.E.D. for service benefits. In the absence of the statutory provisions, the petitioner cannot claim the above benefits. In Ext.P1, the Government have clarified that the provisional service with or without break rendered by the employees upto 30.9.1994 which qualifies for earning increments in terms of Govt. Decision No.2 under Rule 33 Part III of Kerala Service Rules will be reckoned as qualifying service for pension irrespective of dates of retirement after 20.11.1989. The above order refers only to the claim for increments.

In the circumstances, we find no error in the judgment of the learned single judge. Writ Appeal is dismissed.

K.S.Radhakrishnan,
Judge.

Antony Dominic,
Judge.

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